Office of the Inspector General
Los Angeles Community College District

Review Report

Fulbright & Jaworski Memo
Recommendations Status Review
OIG-002

November 30, 2011
November 30, 2011

Dr. Daniel LaVista
Chancellor
Los Angeles Community College District
770 Wilshire Blvd, 9th Floor
Los Angeles, CA 90017

Chancellor LaVista:

This is our report on the status of the Fulbright and Jaworski Memo Recommendations.

The report of audit addresses the recommendations related to non-eligible bond fund positions and functions as reported in the Fulbright and Jaworski Memo issued in March 2010 and subsequent update in September 2010.

I appreciate the courtesies and cooperation extended to us by the District and Program Management staff during the audit process and completion of this report.

Sincerely,

Christine E. Marez
Inspector General
Los Angeles Community College District
# TABLE OF CONTENTS

EXECUTIVE SUMMARY .................................................................................................................. 1  
BACKGROUND .............................................................................................................................. 6  
SCOPE, OBJECTIVE, AND METHODOLOGY ................................................................................. 7  
REVIEW RESULTS .......................................................................................................................... 8  
RECOMMENDATIONS AND COMMENTS ....................................................................................... 20  
ANNEX .......................................................................................................................................... 22  
Annex A – Report Distribution ....................................................................................................... 23  
Annex B – Audit Team .................................................................................................................... 23  
Annex C – Interview List ............................................................................................................... 23  
Annex D – Related Documents .................................................................................................... 23
EXECUTIVE SUMMARY

The Office of the Inspector General (OIG) has reviewed the items addressed in the Fulbright & Jaworski, L.L.P. (F&J) March 10, 2010 and September 14, 2010 memos to the Board of Trustees that were considered not compliant with the provisions of Proposition 39.

The memos identified and addressed four (4) areas of concern and recommended the following:

- Eliminating or modifying various activities Bond Counsel considered not compliant with Prop 39.
- Providing written direction and training to BuildLACCD staff prohibiting lobbying or soliciting funds from any Bond Program vendor or consultant for any legislation, candidate or event sponsorship.
- Revising the terms, conditions, and scope of work (tasks) that are performed and reported as part of the Annual Performance Audit that is required by Prop 39 to be limited to those services required by Prop 39.
- Providing the District Citizens Oversight Committee (DCOC) with the District-funded, not Bond-funded, administrative support necessary to draft and publish the annual report to taxpayers required by Prop 39.

The objective of this review was to (i) determine if the applicable recommendations have been implemented and verify if the identified non-compliant expenditures (or positions) have been reduced and/or eliminated, and (ii) determine whether the items reviewed align with the Bond Program Cost Principles (adopted by the Board on September 14, 2010), which provide a basis of allowable Bond Program bond fund costs, under Proposition 39.

Summary of Findings

The OIG findings following this review address and update the status of each of the issues noted by Bond Counsel in the March and September 2010 memos.

Elimination of BuildLACCD Activities Not Related to Capital Projects

The OIG analysis of Bond Program staffing levels found that 12 persons and positions identified by Duty Statements in 2010 had been released from the organization per Bond Counsel recommendation that specific activities be eliminated or substantially reduced.

Grant Writing: Two (2) positions and persons have been removed from the BuildLACCD organization per the recommendations of Bond Counsel.

Curricula Development: Three (3) “Energy - Sustainability” positions and persons have been removed from the organization as recommended by Bond Counsel.

Public Relations: BuildLACCD staff writing and distributing Bond Program press releases have been removed per Bond Counsel recommendations; certain staff remain who are performing valid Bond Program functions.
Bond Counsel recommended the elimination of videos currently being produced by PVJOBS Sustainable Media Studio (SMS), except for those reasonably necessary to as part of the as-built process) and aerial photography. The OIG found that videos providing the DCOC aerial videos of construction projects have been eliminated per direction of the District.

The OIG reviewed videos previously produced by SMS and currently posted on the BuildLACCD website and found they do not provide information to adequately document the construction process or be considered valuable for “as-built” construction documentation purposes. The OIG’s further review of SMS videos “in-production” found that, although the videos are more oriented towards documenting construction, they do not provide sufficient value necessary for “as-built” documentation or support other construction closeout processes, including the resolution of construction claims.

Therefore, the OIG has determined that the videos produced by the SMS program provide insufficient added value to the Bond Construction Program to prioritize the continued use of bond funds for this purpose. The OIG concludes that this recommendation of Bond Counsel has not been implemented.

**e7 Architectural Studio:** The OIG finds that Bond Counsel’s concern that the PVJOBS administrative and management costs of the e7 program may be unwarranted; and, overhead costs related to the equipment, systems, and office facilities are high due to the nature of the work performed; therefore no further action is required.

The OIG further finds that a review of the markup allowed the sponsoring firms on student salaries for payroll taxes and insurance benefits may be inappropriate since the sponsoring firms have no associated investments in equipment, office facilities, recruiting, or training. The OIG recommends that the e7 program convert intern salaries from a “multiplier” rate to a fixed rate to comply with the current Board policy.

**Internship and Business Outreach:** The five (5) “Business Outreach” positions and persons staffing those positions have been removed per Bond Counsel’s recommendation.

Bond Counsel also questioned the continued need for the extensive outreach and intern job-placement and level of support and costs associated with the management and administration of apprenticeship/internships of the District’s PVJOBS\(^1\) PLA at-Risk, e7, and LACCD JOBS programs. The OIG finds that bond funds are still being expended on providing internship opportunities through activities such as contacting students for internship opportunities, campus visits to meet with students, entering case file information, and confirming placements. The District is currently reviewing the $727,000 expenditures for internship outreach costs and will make a determination if the costs are “reasonable or appropriate” or recommend appropriate modifications.

**Recycling:** One (1) “RPM – Resource Recovery” position and person from BuildLACCD’s organization have been removed per Bond Counsel’s recommendation.

**Conference Participation/Attendance:** Bond Counsel’s recommendation to limit attendance and participation by BuildLACCD staff at conferences, trade shows, and staff training seminars

---

\(^1\) Note: BuildLACCD has two (2) positions that provide some oversight and direction to the PVJOBS programs; however, these efforts only require a small percentage of that staff’s time and attention.
outside the Greater Los Angeles area, including procurement and distribution of BuildLACCD branding “giveaways” and/or promotional materials, has been implemented the timeframe and supporting documentation reviewed.

**Food Services/Entertainment:** Bond Counsel recommended that no bond fund expenditures be used for food or entertainment with the exception of those in connection with a public bond-financed building event or activity i.e., Safety BBQs. The OIG found that the Cost Principles are not aligned with Bond Counsel’s interpretation and allow for the expenditure of bond funds for food service for certain conditions i.e., “meetings for the purpose of administration or completion of listed projects.”

The OIG concludes that Bond Counsel’s recommendation has not been implemented and recommends a revision to the Cost Principles to prohibit the use of bond proceeds for food (including coffee) except for specific bond related events (i.e., groundbreaking ceremonies, “topping off” ceremonies, ribbon-cutting ceremonies, and safety promotions events).

**LEED Certification and Training:** Bond Counsel recommended that bond funds not be used to support LEED certification for BuildLACCD or other Bond Program consultants, including training time for study courses, registration costs, etc. This recommendation has been adopted and is being followed.

Bond Counsel also recommended that the District conserve bond funds for additional construction and reduce costs of LEED certification of the projects providing that no “added value” is received. Bond Counsel does clarify, however, that the use of bond funds for certification is an eligible use of bond funds and LEEDS certification complies with the Board of Trustees Resolutions regarding energy and the Cost Principles. The OIG finds that there has been no change in the funds expended for LEED certification, and no further action is required.

**Tenant Improvements:** Bond Counsel and the Cost Principles reference in their September 2010 documents the pending development of a policy clarifying that bond funds not be used to make improvements or otherwise alter “surplus” space or facilities built with bond funds and subsequently leased to other private organizations or government agencies.

The OIG finds that the District is developing a clear, concise policy defining what constitutes “tenant improvements” and is updating the Cost Principle for adoption by the Board.

**Termination of Lobbying/Solicitation Activities**

Bond Counsel recommended BuildLACCD staff be provided written guidelines and training that defines and clarifies Education Code §7054 and District policy regarding lobbying for any legislation or soliciting support for any political campaign utilizing any bond funded resources, including paid staff time.

The OIG finds that although some training has taken place, periodic, mandatory training needs to be provided to all bond funded staff. The OIG further finds that the Cost Principles reference to “lobbying” is being amended and the updated version of the Cost Principles shall define “lobbying” and “vendor solicitation” activities and prohibit those activities during work hours, or any time bond staff utilizes “lobbying” to advance their position representing the District.
Revisions to Performance Audit Contract Terms

The LACCD contract with Moss Adams for required Bond Program Performance Audit Services, according to Fulbright and Jaworski, did not meet the requirements under Proposition 39. Fulbright & Jaworski recommended that the existing contract be modified to exclude all extraneous services.

Bond Counsel made their recommendations to “remove extraneous services” on March 10, 2010; Amendment No. 4 removing all extraneous services from the Moss Adams contract was executed on August 26, 2010. Although the Moss Adams contract was utilized to perform various additional services and special project audits, the OIG concludes that Bond Counsel’s recommendation was implemented.

Improvement in the Administration of the DCOC

In the March 10, 2010 memo, Bond Counsel advised that Prop 39 required issuance of an annual report by the DCOC and Ed Code §15280(a) and required the District to provide any necessary technical and administrative support required by the DCOC in furtherance of its responsibilities from the District’s General Fund.

In December of 2010, the DCOC issued its 2009-2010 Annual Report for Propositions A/AA and Measure J. It is reported that District staff provided all administrative and technical support. The OIG finds that the District has adhered to this recommendation.

Recommendations

In summary, the OIG recommends that the District implement the following corrective actions to address review findings. These recommendations are necessary to assure that the Bond Program is compliant with Prop 39 as determined and recommended by Bond Counsel, Fulbright and Jaworski.

- The District should objectively evaluate the level of administrative and management overhead and costs being incurred for non-intern staffing under the PVJOBS contract and determine “reasonableness” of bond funds expended or Bond Program value added.
- The District should review and reconcile differences of food services and entertainment costs between Bond Counsel’s determination and the Cost Principles; as appropriate, the Cost Principles should be clarified and updated to reflect the reconciliation.
- The District should develop a clear, concise policy defining what constitutes “tenant improvements” and update the Cost Principles.
- Based on the OIG’s determination that the videos produced by the PVJOBS Sustainability Media Studio (SMS) program provide insufficient added value to the Bond Construction Program, the District should discontinue use of bond funds for this program.

---

2 The OIG notes that the DCOC 2009-2010 Annual Report includes only audits for fiscal years 2007-2008 and 2008-2009; a DCOC Annual Report has yet to be issued on the Bond Program for fiscal year 2009-2010.
• The District should develop a clear, concise policy prohibiting the use of staff resources for “lobbying” or “soliciting contributions” during work hours; and direct the Program Manager to prepare and present mandatory training to all bond funded staff.

• The District should review, update, revise, expand, and clarify the Cost Principles on an annual basis to reflect and address any recommendations of Bond.

**Review of Report**

The OIG discussed the findings noted in this final report with the District and Program Management (BuildLACCD) representatives throughout the audit process. The draft report was distributed for solicitation of management responses on September 19, 2011 and reviewed by Bond Counsel on October 19, 2011 and at subsequent meetings during November 2011. All comments and management responses were incorporated into this Final Report.
BACKGROUND

On March 10, 2010, District Bond Counsel, Fulbright & Jaworski L.L.P., issued a memo to the Board of Trustees summarizing its review of BuildLACCD’s use of bond funds. The purpose of this review, requested by the Board of Trustees, was to issue an opinion as to whether BuildLACCD Program Manager’s use of bond funds was in compliance with the provisions of Proposition 39 (Prop 39) and the “value added” received from the expenditure.

The memo identified and addressed four (4) areas of concern and recommended the following:

• Eliminating or modifying various activities Bond Counsel considered not compliant with Prop 39.

• Providing written direction and training to BuildLACCD staff prohibiting lobbying or soliciting funds from any Bond Program vendor or consultant for any legislation, candidate or event sponsorship.

• Revising the terms, conditions, and scope of work (tasks) that are performed and reported as part of the Annual Performance Audit that is required by Prop 39 to be limited to those services required by Prop 39.

• Providing the District Citizens Oversight Committee (DCOC) with the District-funded, not bond-funded, administrative support necessary to draft and publish the annual report to taxpayers required by Prop 39.

Subsequently, on September 14, 2010, the District and the Board of Trustees adopted the Los Angeles Community College District Proposition A/AA and Measure J Cost Principles (Cost Principles). These “principles” were primarily drafted by Moss Adams, the firm that conducted the District’s Performance Audits since 2005, with input from Bond Counsel and District Management. The Cost Principles’ purpose was to provide guidance and definition as to the appropriate uses of bond funds and would be supplemented and/or updated as appropriate.

Concurrent with adoption of the Cost Principles, on September 14, 2010, Bond Counsel issued a memo to the Board of Trustees further clarifying issues it had raised in its March 10, 2010 memo and its assessment of the status of the Program’s response to Bond Counsel’s recommendations.

On October 10, 2010, the District executed its contract with the Inspector General. Included in the contract’s proposed first year work plan was a review to:

• Determine if Bond Counsel’s recommendations have been effected and verify that the identified non-compliant costs (or positions) were reduced and/or eliminated and not merely reclassified or re-labeled.

• Ensure that use of the Cost Principals align with other OIG determinations of proper use of bond funds compliant to Prop 39.
SCAPE, OBJECTIVE, AND METHODOLOGY

The scope of this review focused on the four (4) major areas of concern defined by Bond Counsel:

• Elimination of BuildLACCD activities not related to Capital Projects.
• Termination of activities (related to lobbying and fund solicitation).
• Revisions to Performance Audit Contract Terms.
• Improvements in the administration of the DCOC.

Each of the issues identified in the four (4) major areas of concern were to be part of the scope.

The objective of this review has been to (i) determine if the applicable recommendations had been implemented and verify that the identified non-compliant expenditures (or positions) have been reduced and/or eliminated, and (ii) determine whether the items reviewed align with the Bond Program Cost Principals (adopted by the Board on September 14, 2010), which establish the basis of allowable Bond Program bond fund costs, under Proposition 39.

In preparing its March 10, 2010 memo, Bond Counsel subsequently also reviewed a number of documents, including Position Descriptions. Bond Counsel additionally reviewed employee daily activity logs/timesheets, expense reimbursements, and the annual Performance Audits at the request of District General Counsel. The methodology employed by the OIG to achieve the objectives of the review emulated that employed by Bond Counsel including:

• Reviewing and analyzing both the March 2010 and September 2010 memos issued by Bond Counsel.
• Interviewing Lisalee Wells, Bond Counsel, to further clarify the areas of concern discussed in the memos.
• Reviewing and analyzing documents relevant to the issues (where available) in each area of concern including:
  – Staffing/Position Lists (February 2010 and February 2011)
  – Organization Charts
  – Duty Statements/Position Descriptions (2009 and 2011)
  – Invoices
  – Contract Scopes of Work and Amendments
  – Training Materials
• Interviewing BuildLACCD staff having direct involvement or oversight of the areas of concern.

This review has been conducted in accordance with the Quality Standards for Inspections, Evaluations, and Reviews as defined in the May 2004 version of the Principles and Standards for Office of Inspector General, issued by the Association of Inspector General (AIG).
The findings of this review address and update the status of each of the issues noted and discussed in Bond Counsel’s memos dated March 10, 2010 and September 14, 2010.

**Elimination of BuildLACCD Activities Not Related to Capital Projects**

Bond Counsel, in both the March 2010 and September 2010 memos, identified and recommended specific activities be eliminated or substantially reduced with a corresponding decrease in staff positions anticipated. Bond Counsel’s review primarily focused on BuildLACCD’s “core” Program Management activities. This included looking at Daily Activity Logs/Timesheets and Duty Statements; however, some of the Duty Statements and/or staff Daily Activity Logs/Timesheets reviewed by Bond Counsel were from firms having independent contracts with the District and who are not part of the “core” activities directly overseen by BuildLACCD’s Program Management, i.e., PVJOBS, SMS, e7, Padilla & Associates, public relations, etc.

The OIG reviewed and analyzed Program Management Labor Summary reports for February 2010 and February 2011 and found that 12 persons and positions identified by Bond Counsel as noncompliant with Prop 39 had been released from the organization.

A further comparison of the 2010 and 2011 Labor Summaries was made to determine if personnel were re-assigned from positions that were eliminated to different positions or functions. The OIG found that duties reflecting functions that Bond Counsel recommended be terminated were removed from several Duty Statements of persons currently working in those positions. In the sample tested, the OIG only found 2 instances where persons were reassigned to different groups, and no change was made to their Duty Statement reflecting the revised duties of their new positions.

The OIG concludes that the specific positions and functions at BuildLACCD that Bond Counsel identified as not being compliant with the provisions of Proposition 39 have been eliminated.

The following summarizes the OIG’s findings and analysis of the current status of Bond Counsel’s recommended actions to eliminate or modify various activities considered noncompliant with Prop 39.

**Grant Writing**

Bond Counsel’s recommendation that the “Grant Writing” activities (and related positions) be eliminated appears to have been done. The two (2) positions and persons identified in the 2010 staff/position listing as the “Resource Development” Department and listing the administration or application of grants as primary duties in the 2009 Duty Statements have been removed from the BuildLACCD organization. Review of the 2011 Duty Statements did not find any reference to writing and/or application for grants.

The OIG concludes that the recommendation of Bond Counsel has been implemented.
Curricula Development

Bond Counsel’s recommendation that development of any curricula related to sustainability or “green” classes be halted appears to have been completed. At least three (3) “Energy - Sustainability” positions and persons who primarily coordinated development of curricula, public relations materials, and events related to the sustainability program have been removed from the organization. Other related positions that remain are considered compliant and necessary to the specification, design, and implementation of sustainable features in the Program’s construction projects.

The OIG concludes that the recommendation of Bond Counsel has been implemented.

Public Relations

Bond Counsel’s recommendation to eliminate the BuildLACCD staff writing and distributing press releases regarding the Bond Program appears to have been implemented. Writing and distribution of press releases for the District is now performed under a separate contract with the MWW Group. At least two (2) “PR Communications” positions have been closed and those persons no longer work on the Bond Program. Several positions for responding to public information requests and/or distributing public information remain as they are considered a valid, legally required Bond Program function.

Several other Public Relations activities that Bond Counsel recommended for elimination in the March 10, 2010 memo have not been modified or eliminated. Bond Counsel recommended elimination of “…development, production, and distribution of videos regarding the Bond Program (except for those reasonably necessary to as part of the as-built process) and aerial photography.” The development, production, and distribution of videos regarding the Bond Program continues under a portion of contract #50140 with Playa Vista Job Opportunities and Business Services (PVJOBS) titled “Sustainable Media Studio (SMS)”.

Bond Counsel did subsequently clarify that “…aerial photography paid for by Bond proceeds may be considered as a capital expenditure, where the purpose is to record construction progress” would be considered an eligible expense.

The OIG found that videos being produced for the purpose of providing the DCOC aerial videos of construction projects have been eliminated per direction of the District.

The OIG reviewed videos previously produced by SMS and currently posted on the BuildLACCD website and found they do not provide information to adequately document the construction process or be considered valuable for “as-built” construction documentation purposes. The OIG’s further review of SMS videos “in-production” found that, although the videos are more oriented towards documenting construction, they do not provide sufficient value necessary for “as-built” documentation or support other construction closeout processes, including the resolution of construction claims.

Therefore, the OIG has determined that the videos produced by the SMS program provide insufficient added value to the Bond Construction Program to prioritize the continued use of bond funds for this purpose. The OIG concludes that this recommendation of Bond Counsel has not been implemented.
**e7 Architectural Studio**

PVJOBS’ contract #50140, also provides architectural support services for the Bond projects through the e7 Architectural Studio. These services include creation of 3D animations to help users (and others) visualize the buildings, models to test performance of the proposed design and systems, creation of an integrated GIS system for management and control of the new and existing campus facilities and a centralized electronic “archive” of all campus improvements and facilities (including utilities) and related records (DSA approval documents, warranties, construction specifications, etc.). These services are provided by PVJOBS’ professional studio staff, including a licensed architect and student interns who are supervised and overseen by the professional PVJOBS staff.

This component of the PVJOBS contract is generally perceived as a means of providing a paid internship to LACCD students, which results in a tangible product for the Bond Program. The OIG’s discussions with PVJOBS’ management has clarified that this component of the contract is actually a binding contract between PVJOBS to produce specified “deliverables” and that they use LACCD student interns to augment e7’s professional studio staff to produce “deliverables”.

Bond Counsel expressed its concern regarding the “…substantial administration and management network …” costs of the PVJOBS’ programs. The OIG has reviewed the distribution of salaries between administration, professional, and intern positions for February 2011 and found:

- $64,446 – or roughly 51% -- was paid in salaries to student interns.
- $41,653 – or roughly 33% -- was paid in salaries to the professional studio staff.
- $20,497 – or roughly 16% -- was paid in salaries to the administrative staff.

During the month sampled, the program employed 48 different student interns – who worked an average of 90 hours per month. Student interns are charged by the sponsoring firms at $33.00 per hours – and are paid approximately 50% of that as salary and which is what is identified above. The other 50% is used to help provide full insurance benefits to each student intern, pay employee taxes and cover the firm’s operating costs.

The OIG’s review found that in the 12 months between February 2010 and February 2011, contract #50140 was charged $3,235,321.89 for e7’s services – and average of approximately $270,000 per month. On average, roughly $200,000 of this was for monthly salaries and fringe benefits. The other $70,000 per month, nearly 25%, is overhead required for space rental, office supplies and equipment, computer systems capable of efficiently supporting the software, support equipment (printers, monitors, plotters, etc.), software licensing and the 10% markup allowed PVJOBS on all costs incurred.

The OIG finds that Bond Counsel’s concern that the PVJOBS administrative and management costs of the e7 program may be unwarranted; and, overhead costs related to the equipment, systems and office facilities are high due to the nature of the work performed; therefore no further action is required.

The OIG further finds that a review the markup allowed the sponsoring firms on student salaries for payroll taxes and insurance benefits may be inappropriate since the sponsoring firms have no associated investments in equipment, office facilities, recruiting, or training. The OIG
recommends that the e7 program convert intern salaries from a “multiplier” rate to a fixed rate to comply with the current Board policy.

**Internship and Business Outreach**

Bond Counsel recommended that “Outreach” related programs, targeted at small and emerging businesses, be reduced as these programs have resulted in up to 70% participation by small and emerging businesses\(^3\), which exceeds the District’s goal of 28%. The five (5) “Business Outreach” positions and persons staffing those positions have been removed from the BuildLACCD Program Management organization. The OIG concludes that the recommendation of Bond Counsel has been implemented.

Bond Counsel also recommended the review of the level of support and costs associated with the management and administration of apprenticeship/internships component of the District’s PVJOBS\(^4\) PLA at-Risk, e7, and LACCD JOBS programs. Although internships supporting bond construction are eligible, Bond Counsel specifically questioned the continued need for the extensive outreach and intern job-placement effort.

These services are provided to the Bond Program under contract #50140 titled “Apprenticeship/Interns Outreach” and generally include:

**Apprenticeship/Interns (PLA At-Risk)**

- Construction site visits to advise contractors and subcontractors of the PLA contractual commitment to meet the District’s goal of having six percent (6%) at-risk workers in its construction project workforce and monitor contractor/union compliance as mandated by the Project Labor Agreement (PLA) and Board Resolution.

- Outreach to LACCD students to introduce apprenticeship opportunities on Bond funded projects.

- Outreach to the local communities through job fairs and workforce development organizations to promote construction career and educational opportunities at LACCD for local and at-risk individuals.

- Assistance for local and at-risk individuals to access trade union apprenticeships and dispatching opportunities, as well as coordinating support services for the individuals and certification as meeting PLA at-risk requirements for LACCD Jobs’ referrals and non-LACCD Jobs’ referrals.

**Intern Outreach (LACCD Jobs)**

- Outreach to LACCD students and local communities to advise students, residents, and faculty/staff of the internship opportunities available on District bond projects by visiting each college, attending college-organized job fairs, and developing informational material.

\(^3\) Source – LACCD Construction Management 2010/2011 Program Update

December 21, 2010, Office of the Chancellor, Daniel J. LaVista, Ph.D

\(^4\) Note: BuildLACCD has two (2) positions that provide some oversight and direction to the PVJOBS programs; however, these efforts only require a small percentage of that staff’s time and attention.
• Outreach to employers to identify and/or develop job opportunities for interns.
• Placement and tracking of interns, providing support to ensure success and reporting on intern performance.

During the 12 months between February 2010 and February 2011, PVJOBS charged $727,289.61 against contract #50140 for services titled “Apprenticeship/Interns Outreach”.

Bond Counsel specifically identified in the September 14, 2010 memo that career or job placement activities to match up students with companies working on Bond funded projects did not constitute an eligible capital expenditure under Prop 39, but that “…a reasonable amount of Bond proceeds may be expended in order to assemble and post internship availabilities on the LACCD Builds Green website.” Bond Counsel’s recommendation also indicated that “outreach to students and faculty/staff can be adequately accomplished via announcements at the campuses (internet, posters, flyers, etc.)”.

The OIG finds that bond funds are still being expended on providing internship opportunities through activities such as contacting students for internship opportunities, campus visits to meet with students, entering case file information and confirming placements as confirmed by PVJOBS staff and based upon sampled time sheets submitted to the PM for review and approval. The District is currently reviewing the $727,000 expenditures for internship outreach costs and will make a determination if the costs are “reasonable or appropriate” or recommend appropriate modifications.

**Recycling**

Bond Counsel acknowledged any costs for recycling of construction materials and training of campus staff in the use of new recycling equipment and systems is a proper expenditure of bond funds.

Bond Counsel’s recommendation to cease any activities related to organizing, conducting or participating in recycling competitions, ranging from a campus level through a local or national level, has been implemented. This has resulted in the removal of one (1) “RPM – Resource Recovery” position and person from BuildLACCD’s organization; however, review of the Duty Statements provided for BuildLACCD’s 2011 staff found one (1) staff member whose position was listed under the Group/Position categorized as “Recycling”. The descriptions of duties listed for that person are identical to those listed in their 2009 Duty Statement under the Group/Position categorized as “Design Standards/Interiors”, including Item #2 “Resource Recovery – Support district facilities director and resource recovery manager for all campuses in procuring and administering the recycling need.” Program Management reports that this task is primarily oriented towards helping procure the specialized items and equipment utilized in the District’s recycling effort in new facilities.

The OIG concludes that the recommendation of Bond Counsel has been implemented.

**Conference Participation/Attendance**

Bond Counsel’s recommendation to limit attendance and participation by BuildLACCD staff at conferences, trade shows, and staff training seminars outside the Greater Los Angeles area, including procurement and distribution of BuildLACCD branding “giveaways” and/or promotional materials, has been implemented for the timeframe and supporting documentation
reviewed. BuildLACCD management reports it has not sent staff to any conferences, trade shows, or training seminars since adoption of certain language regarding “Conference Costs” in the Cost Principles.

The OIG concludes that the recommendation of Bond Counsel has been implemented.

Food Services/Entertainment

Bond Counsel recommended no bond fund expenditures be allowed to provide food or entertainment to BuildLACCD staff or vendors, with the exception of those in connection with public bond-financed building event or activity. This recommendation is based on Tax Code and regulations and included meals provided to BuildLACCD staff for business meetings and/or social events paid for with bond funds.

The Cost Principles allow expenditure of bond funds for food service “...at special events for which public information is provided, ...”, which appears to be consistent with Bond Counsel’s recommendations. However, the Cost Principles also allow expenditure of bond funds for food service “...(where) allowable training costs (are) incurred, or meetings for the purpose of administration or completion of listed projects is fulfilled are considered reasonable to the extent that these costs do not exceed limits to be established by the District.” BuildLACCD management has advised it interprets this to mean bond funds can be used to pay for meals provided during extended meetings (i) attended by non-bond funded participants, (ii) regarding bond-related issues, and (iii) with the approval of the Executive Director of Facilities (EFD). This practice is not consistent with current Facilities Executive Director’s interpretation or Bond Counsel’s recommendations as stated in either the March 2010 or September 2010 memos. Furthermore the District’s policy (Board Rule 17000.11) expressly prohibits expenditures for meals and refreshments for routine administrative meetings, budget planning sessions or other types of informal meetings that are held in the normal course of performing a job. The Cost Principles should be reviewed and clarified to align with Bond Counsel’s recommendation.

The Cost Principles expressly additionally prohibit expenditures for entertainment and provides reasonably unambiguous direction on what constitutes “entertainment”. A sampling and review by the OIG of the reimbursable expenses invoiced during 2010-11 by CPM firms finds compliance with Bond Counsel’s recommendation and the Cost Principles regarding “entertainment” expenses.

This same sample of reimbursable expenses finds items being reimbursed that are not compliant with Bond Counsel’s recommendation, the Cost Principles or the CPMs’ contracts, i.e., reimbursement for meals, coffee, cups, plates, and commonly associated condiments (sugar, creamer, etc.). Article 4.2.1 of the CPMs’ contracts do not list these items as reimbursable expenses. A more expansive review of CPM and PM reimbursable expenses is being conducted concurrently by the OIG and will be reported in the OIG-005 Bond Fund Management Audit.

The OIG concludes that Bond Counsel’s recommendation has not been implemented. The OIG recommends a revision to the Cost Principles to prohibit the use of bond proceeds for food (including coffee) except for specific bond related events such as groundbreaking ceremonies, “topping off” ceremonies, ribbon-cutting ceremonies, and events for safety promotions. Bond Program staff should be trained to ensure a consistent interpretation and practice of this policy.
LEED Certification and Training

Bond Counsel recommended that bond funds not be used to provide education and training support for LEED certification of BuildLACCD or other Bond Program consultants, i.e., architects, engineers, office staff, etc., including training time for study courses, registration costs, etc. It appears that this recommendation has been adopted and is being followed based upon sampled timesheets and expense reports, and interviews with BuildLACCD staff.

Bond Counsel recommended as sound public policy that the District “conserve bond funds for additional construction and reduce costs of LEED certification”. While Bond Counsel concurs with the District’s decision to apply the LEED standards to bond fund construction, Bond Counsel recommended that the District not expend the funds required for application and certification of the projects by the U.S. Green Building Council (USGBC). Bond Counsel suggested that this cost of certification, which includes not only the costs paid to USGBC but also the costs of a certified LEED consultant from the project design phase through completion of the building commissioning phase, provided no “added value” to the buildings or District as the projects cannot be commercially financed or sold.

Bond Counsel does clarify, however that the use of bond funds for certification is an eligible use of bond funds and LEEDS certification complies with the Board of Trustees Resolutions regarding energy and the Cost Principles. The OIG finds that there has been no change in the funds expended for LEED certification, and no further action is required.

Tenant Improvements

Bond Counsel recommended bond funds not be used to make improvements or otherwise alter “surplus” space or facilities built with bond funds and subsequently leased to other private organizations or government agencies; however, both Bond Counsel and the Cost Principles reference in their September 2010 documents the pending development of a policy clarifying and addressing this subject by District Management to provide criteria and guidance on the subject.

The OIG finds that the District is developing a clear, concise policy defining what constitutes “tenant improvements” and is updating the Cost Principle for adoption by the Board.

Termination of Lobbying/Solicitation Activities

Bond Counsel recommended BuildLACCD staff be provided written guidelines and training that defines and clarifies Education Code §7054 and District policy regarding lobbying for any legislation or soliciting support for any political campaign utilizing any bond funded resources, including paid staff time. The Cost Principles addressed these issues as follows:

- **Contributions** – “Efforts by BuildLACCD staff to solicit contributions are an unreasonable use of staff resources.”

- **Lobbying** – “Lobbying the state, federal or other local governments, for whatever reason, is unallowable. What constitutes “lobbying” is under review by District staff and will be the subject of a policy to be developed by the District.”
BuildLACCD Program Management reported preparing and presenting to its staff several presentations addressing the subject of “lobbying” in September 2010. Staff attendance at these presentations was mandatory. Figure A presents slide 5 of a BuildLACCD presentation titled “Cost Principles”.

BuildLACCD Project Management also presented its staff with a 7-slide presentation titled “Program Labor Log Training” in September 2010 that also references lobbying activities – “instructing staff on words or phrases that should not be entered into daily activity logs”. Figure B presents slide 7 of that presentation.

BuildLACCD subsequently prepared and presented to the CPMs during their roundtable meeting a 9-slide presentation titled “Cost Principles”. Figure C, on the following page, presents slide 8 of that presentation. This presentation was subsequently presented to the project management staff at various campuses where requested and/or approved.

---

Cost Principles

- Lobbying – always unallowable
- Outreach
  - Unallowable – no valid Bond purpose
  - Unreasonable – questionable like “take aways”
  - Reasonable – business cards
- Training
  - Unallowable – no valid Bond purpose
  - Unreasonable – questionable costs as not reasonable
  - Reasonable –
    - unique Bond technical objectives
    - Complex activities
    - Specific work instructions
    - Bidders Boot Camp

---

Figure A
Slide 5, Cost Principles – BuildLACCD September 2010
Tips on What Not to Do:

- Do not include words such as:
  - “Political”
  - “Lobbying”
  - “Curriculum Development”
  - “Non-Bond”
- Do not write phrases such as:
  - “Filled out my daily log…”
  - “Worked on grant for…”
  - “Worked on state funding issues…”
- Do not charge the Program/Client for:
  - Lunch / Breaks.
  - Your company Holidays.
  - Sick time, Vacation time, Personal time, Jury Duty, etc.
  - More than 8 hours per day (Monday-Friday).
  - Your own employer’s meeting(s).
  - Hours on Saturday/Sunday.
  - Filling out your Daily Log.

Best Practices

- Vendor Solicitations
  - Discouraged
  - Employers’ policy
- Warranties
  - Maybe extended for 3 to 5 years
  - Must be purchased at the time the FF&E is purchased; i.e. along with the purchase of any computer
The OIG acknowledges that BuildLACCD Program Management and CPM staff received “training” on the “lobbying” issue, as recommended by Bond Counsel; however, there is no indication that they received “training” related to “soliciting”. Likewise, the CPMs and some project management field staff received “training” that referenced “Vendor Solicitation” as part of their regularly scheduled “round table” meeting, but this training did not specifically direct staff as to when and what types of soliciting was prohibited; and, this presentation also did not address “lobbying”. The OIG finds that overall, the training effort was minimal and did not clearly emphasize that “lobbying” or “soliciting contribution” was prohibited during work hours funded by Bond proceeds.

The Cost Principles, which briefly reference both lobbying and vendor solicitation, have been written and made available to both BuildLACCD Program Management and the CPM staff; however, the direction provided in the document is ambiguous, including references to policy documentation that has not been created. BuildLACCD Project Management reported they did not have access to a District “lobbying” policy to use as a basis for developing a concise presentation on the subject as that policy has still not been developed.

The OIG finds that although some training has taken place, periodic, mandatory training needs to be provided to all bond funded staff in clear, concise presentations that include relevant examples of allowable and non-allowable activities. The OIG further finds that the Cost Principles reference to “lobbying” is being amended and the updated version of the Cost Principles shall define “lobbying” and “vendor solicitation” activities and prohibit those activities during work hours; or any time bond staff utilizes “lobbying” to advance their position representing the District.

Revisions to Performance Audit Contract Terms

The LACCD contract with Moss Adams for required Bond Program Performance Audit Services, according to Bond Counsel, included services not called for under Prop 39 that should not be paid for from Bond proceeds. Bond Counsel recommended that the existing contract be modified to exclude all extraneous services such as:

- Forecasting of FTES
- Consensus-Building and Analysis
- “Site-Educational Needs”
- Facilities Master Planning and Prioritization
- Study of LEED Certification Points
- Attendance of Meetings and Special Events
- Facilitating Communication and Reporting among the Board, Colleges, and District Administration
- Assistance in Preparation of Board Reports
- Auditing Amounts Received from State and Federal Sources
The original contract, July 1, 2008 through June 30, 2011, was for $517,600 for fees and $32,400 for reimbursable expenses. The contract included five (5) amendments for an overall increase of the contract value to $733,785 labor and $29,637 reimbursable expenses. The revisions to the contract scope of work for each amendment are as follows:

- **Amendment 1:** Never executed.

- **Amendment 2:** (May 18, 2010) Increased contract value by $161,548 for fees and $7,450 for reimbursable expenses. Scope included additional services related to 1) Chevron contract scope and billing analysis; 2) Procurement and Contract Management Procedures and Controls Audit at East LA College; 3) Special Project, LA Valley College Allied Health; 4) Assessment of Assetek asset data for accounting purposes; 5) Special Project (invoice procedures); and 6) LEED points Audit.

- **Amendment 3:** (July 28, 2010) Increased contract value by $42,000 for fees and $2,700 for reimbursable expenses. Scope included additional services to assist the District with drafting Cost Principles for LACCD consideration in its determination of allowable Proposition A/AA and Measure J construction Bond Program costs under Prop 39.

- **Amendment 4:** (August 26, 2010) No increased contract value. Scope included the performance of the FY 09/10 Risk Based Performance Audit at no additional cost to LACCD. The amendment included the removal of contract sections describing extraneous services that were replaced with revised contract sections inclusive of bond eligible services only.

- **Amendment 5:** (June 20, 2011) Reallocated $12,637 from reimbursable expenses to fees, at no additional cost.

Facilities submitted Amendment No. 2 to the Board of Trustees for action to authorize the amendment to the contract; however, the work described in Amendment No. 2 was already completed in the 2-3 year period prior to the submittal of the amendment for action. The amendment should have been submitted to the Board for ratification of work already performed and completed.

Bond Counsel made their recommendations to “remove extraneous services” on March 10, 2010; Amendment No. 4 removing all extraneous services from the Moss Adams contract was executed on August 26, 2010. Although the Moss Adams contract was utilized to perform various additional services and special project audits, the OIG concludes that Bond Counsel’s recommendation was implemented.

**Improvement in the Administration of the DCOC**

In the March 10, 2010 memo, Bond Counsel discussed the role of the District’s independent Citizens Oversight Committee. This is the District Citizens’ Oversight Committee (DCOC) at LACCD. This committee is responsible for examining and verifying that the expenditure of any bond funds authorized under Proposition 39 is for the specific school facilities projects listed in the bond measure. Bond Counsel advised that Prop 39 required issuance of an annual report by the DCOC and Ed Code §15280(a) and required the District to provide any necessary technical and administrative support required by the DCOC in furtherance of its responsibilities from the
District’s General Fund (Ed Code §15280(b) prohibits the use of bond funds to pay for that support).

In December of 2010, the DCOC issued its 2009-2010 Annual Report for Propositions A/AA and Measure J. It is reported that District staff solely provided all administrative and technical support. The OIG finds that the District has adhered to this recommendation.

The OIG notes that the DCOC 2009-2010 Annual Report covers DCOC “Reports for Fiscal Year(s) 2003-2010”, however the report refers only Bond Program audits for fiscal years 2007-2008 and 2008-2009; therefore an Annual Report should be issued to report on Bond Program audits performed for fiscal year 2009-2010.
RECOMMENDATIONS AND COMMENTS

Recommendation 1.0

The District should objectively evaluate the level of administrative and management overhead and costs being incurred for non-intern staffing under the PVJOBS contract and determine “reasonableness” of bond funds expended or value added for the Bond Program.

Views of Responsible Officials and Planned Corrective Action

The District agrees with this recommendation and will commence a review of the costs related to administrative and management within the PV Jobs contract as it relates to all potential value added for the Bond Program. The District and Bond Counsel have always agreed that the concept of “reasonableness” is completely subjective. For this reason, The District will communicate its evaluation of PV Jobs costs with legal counsel for a consensus of opinions.

Recommendation 2.0

The District should review and reconcile differences of food services and entertainment costs; between Bond Counsel and the Cost Principles; and develop a clear and concise food policy for the Bond Program; and prepare and present mandatory training to all bond funded staff.

Views of Responsible Officials and Planned Corrective Action

The District is reconciling the differences in the food policy and is incorporating changes into the update of the Cost Principles. Revised food services policies will be included in its current training program.

Recommendation 3.0

Based on the OIG’s determination that the videos produced by the PVJOBS Sustainability Media Studio (SMS) program provide insufficient added value to the Bond Construction Program, the District should discontinue use of bond funds for this program.

Views of Responsible Officials and Planned Corrective Action

The District agrees that SMS has partially complied with Bond Counsel’s memos. The District will commence a review of the current videos as submitted by SMS and work with the Office of General Council to determine if there is a consensus as to the “reasonableness” of the deliverables that are “in production”. Should the consensus reached be that the videos are not reasonable costs to the Bond Program; the District shall terminate the current task order. Should the consensus reached be that the videos are reasonable; the District will set up a review process for all future deliverables to maintain reasonable costs.
Recommendation 4.0

The District should develop a clear, concise policy defining what constitutes “tenant improvements” and therefore is not eligible to be funded with bond proceeds.

Views of Responsible Officials and Planned Corrective Action
The District agrees with this recommendation. The District is developing a clear, concise policy defining what constitutes “tenant improvements” and is updating the Cost Principle for adoption by the Board.

Recommendation 5.0

The District should develop a clear, concise policy prohibiting the use of staff resources for “lobbying” or “soliciting contributions” during work hours; and direct the Program Manager to prepare and present mandatory training to all bond funded staff.

Views of Responsible Officials and Planned Corrective Action
The District agrees with this recommendation; General Counsel is developing a policy prohibiting the use of staff resources for “lobbying” or “soliciting contributions” during work hours and is updating the Cost Principles. BuildLACCD will expand its current training program to include this new policy.

Recommendation 6.0

The Cost Principles use the terms “reasonable amounts” or “reasonable costs” as a basis for determination of bond fund eligibility for certain areas. The use of these terms does not provide a quantifiable measurement for which allowable bond expenses can be determined. The OIG recommends that the Cost Principles be reviewed by District Management and Bond Counsel and updated to include quantifiable measures, as appropriate. The District should additionally update, revise, expand and clarify the Cost Principles on an annual basis to reflect and address any outstanding and/or future recommendations of Bond Counsel that are specifically approved by the Board of Trustees.

Views of Responsible Officials and Planned Corrective Action
The District agrees with this recommendation. General Counsel and outside Bond Counsel are preparing an update to the Cost Principles and developing a timetable for the annual review/revisions of the Cost Principles. The District will work with General Counsel and outside Bond Counsel to develop a quantifiable definition of “reasonableness” as appropriate. BuildLACCD will expand its current training program to include any new approved recommendations.
ANNEX

Annex A – Report Distribution
Annex B – Audit Team
Annex C – Interviews Performed
Annex D – Related Documents
ANNEX A – REPORT DISTRIBUTION

Board of Trustees
Chancellor Dr. Daniel J. LaVista
Deputy Chancellor, Dr. Adriana Barrera
Office of General Counsel
Facilities Planning & Development
Program Manager (BuildLACCD)

ANNEX B – AUDIT TEAM

Clifford Dewey, Senior Manager
Dulce Kapuno, Auditor, CPA
Sam Qiu, Senior Auditor, CPA

ANNEX C – INTERVIEW LIST

Interviews were conducted with the following staff:

- Lisalee Wells, Bond Counsel, Fulbright & Jaworski, L.L.P.
- Mona Garber, BuildLACCD Program Compliance Manager
- Ernest Roberts, Executive Director PVJOBS
- Mike Rendler, e7 Architectural Program Director
- Michael Cervantes, BIM Support BuildLACCD

ANNEX D – RELATED DOCUMENTS

- Fulbright and Jaworski, L.L.P. Memo (dated March 10, 2010)
- Fulbright and Jaworski, L.L.P. Memo (dated September 14, 2010)
- Meals and Refreshments and District Formal Functions (Board Rule 17100)
MEMORANDUM

TO: Board of Trustees, Los Angeles Community College District
FROM: Lisalee Anne Wells
DATE: March 10, 2010
RE: Recommendations to Insure Compliance with Proposition 39

The Interim Chancellor has requested our law firm, in its capacity as Bond Counsel to the Los Angeles Community College District (the "District") to review known activities and positions at BuildLACCD ("Build"), the group of contractors responsible for administering and managing the program by which the District has and will continue to construct, install, equip and furnish a volume of capital improvements (the "Bond Program"), to insure compliance with the provisions of the State Constitution and Education Code that comprise "Prop 39," the constitutional initiative adopted in November 2000. The District's three general obligation bond authorizations (the "Authorizations") were all adopted under Prop 39.

In connection with this assignment, we were asked to review position descriptions for those working at Build, a number of consultant contracts, certain expense reports, certain approvals by the Board of Trustees (the "Board") and a number of reports from various consultants, and to attend a meeting of the District Citizens' Oversight Committee (the "DCOC").

Elimination of BuildLACCD Activities Not Related to Capital Projects. We recommend that positions at Build or contracts made through the auspices of Build for the following services or products be eliminated. In most cases, individual positions at Build should be terminated in accordance with their contracts and consulting contracts should be terminated in accordance with their provisions, both at the earliest possible date. No similar contracts should be presented to the Board for approval in the future. In order to ensure that Bond proceeds are directed strictly to qualified uses, we recommend that the Board establish a process whereby an independent contractor or District employee not reporting to the Executive Director of the Bond Program be responsible for reviewing project contracts, change orders, revisions and invoices before execution or payment in order to confirm that expenditures are capital in nature and are directed at projects listed for the Authorization whose Bonds will be charged. The Fulbright firm can also be called upon at any time, or in a more formal, on-going manner, to provide advice regarding compliance with Prop 39 to designated District staff, for this purpose.

- Grant-writing.
Travel to, attendance at, organizing and arranging sponsorships for conferences of any kind, other than conferences for companies to learn about Bond Program contracts coming up for bid ("Bidders' Conferences"). Build staff should work with General Counsel, outside counsel, and the District Inspector General to develop reasonable standards for Bidders' Conferences, setting limits as to the number of Build or Bond Program Consultant staff required to be in attendance, restricting Bidders' Conferences to the Los Angeles area, frequency and support features for Bidders' Conferences. Exceptions might require Board action.

- Development of curricula in sustainability, green construction or any other topic.
- Public relations, including the writing and distribution of press releases regarding the Bond Program, development, production and distribution of videos regarding the Bond Program (except for those reasonably necessary as part of the as-built process) and aerial photography. A more complete list of impermissible activities can be produced at a later date, in consultation with the District. Activities related to satisfying requests for documents relating to the Bond Program under the California Public Records Act may continue to be paid for from Bond proceeds.
- Food services, entertainment, special lighting and sound services, whether or not in connection with the public relations activities set forth above.
- Internship, PVJobs and related programs serving job placement or on-the-job training activities.
- Recycling programs and competitions. A limited amount of training of College staff in the use of new recycling equipment, as necessary, and efforts to recycle construction materials left behind by contractors may be paid for from Bond proceeds.
- Design and production of business cards, conference "take-aways" such as water bottles, carry sacks or other items, or similar "branding" activities.
- Applications for LEED and other sustainable certifications of Bond Program buildings, including supporting video productions, or the costs of training individuals to become LEED consultants; the District should continue to build to LEED standards, whether silver, gold or platinum, and District consultants, such as architects, should be encouraged to spend their own money to obtain such certifications as they may wish, to be used for their own marketing purposes.
- Tenant improvements. For those Bond-financed or —improved facilities which, due to staffing constraints and program limitations at the District, cannot presently be operated for college purposes but are rented on an interim basis to for-profit or non-profit companies or other government agencies, no additional Bond proceeds...
may be spent to improve or alter the facilities to meet the requirements of the tenants.

- Excessive outreach not reasonably likely to result in the identification and participation in the Bond Program of additional local, small and emerging businesses. In particular, no outreach activities should be conducted outside of Los Angeles County, nor should Build staff attend Chamber of Commerce activities, without some demonstration of utility.

**Termination of Activities.** Remaining staff at Build should be cautioned orally (in training sessions) and in writing that the following activities may not be undertaken to any degree during the course of their continued work for the District. They should also be instructed that any demand from any party that they engage in these activities should be reported to the District Inspector General as soon as possible.

- Lobbying for favorable legislation, whether local, State or Federal.
- Solicitations of vendors/consultants on or prospective vendors/consultants for the Bond Program for sponsorships or contributions of any kind, for any reason.

**Revisions to Performance Audit Terms and Reports.** The existing contract with Moss Adams (the "M-A Contract") for the annual Bond Performance Audit required under Prop 39 (the "Performance Audit") does not meet Constitutional requirements and should be renegotiated and rewritten at the earliest possible date. While the District is entitled to expand the scope of the Performance Audit to cover matters not specifically required under Prop 39, only services called for under Prop 39 should be paid for from Bond proceeds. We note certain credentials of persons working under the M-A Contract describe "Proposition 39 Performance Audit experience" that "includes college construction financed by State bonds." State bonds are not issued under Prop 39 and any audit requirements for the District created by receipt of State bond moneys may not be paid for with proceeds of the District's Prop 39 Bonds. The M-A Contract offers additionally to cover forecasting of FTES, consensus-building, "site educational needs," facilities master planning and prioritization, District contract administration, a study of LEED certification points apparently assigned to Bond Program buildings, attending many meetings and special events at various locations throughout the District, facilitating communication and reporting among the Board, the Colleges and District administration generally, auditing amounts received from State and Federal sources, assisting in the preparation of Board reports and approvals and safety and insurance matters, which are not related to the very specific requirement of Prop 39: "an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed." Cal. Const. Art. XIII A, Sect. 1(b)(3)(C). This cited purpose is embedded in the list of services provided by Moss-Adams, but (1) many extraneous services are provided; and (2) the Performance Audit for the 2008-09 Fiscal Year nonetheless does not provide the DCOC with sufficient information for the DCOC to perform its primary duty of advising the taxpayers of the District as to the proper expenditure of Bond proceeds. That report provides no details attributing Bond Program expenditures to various projects on the three active Project Lists. The M-A Contract itself also evidences
significant confusion as to the purpose of the Performance Audit: one of the offered services is to review "Citizens' Oversight Committee reports." Not only is this exactly backwards: the DCOC is supposed to be able to rely on the Performance Audit in preparing its annual report to the taxpayers (see discussion below); but the 2008-09 Performance Audit fails to note that the DCOC has never yet prepared or filed a report to the taxpayers.

Once the tasks under the M-A Contract are properly sorted, clarified and identified, it may be better to have the engaged firm prepare and be paid for two separate reports. The Performance Audit required under Prop 39 may be paid for from Bond proceeds; the remainder of work that the District desires to be done would properly be a charge against the District's general fund.

**Improvements in the Administration of the DCOC.** Once a compliant Performance Audit and the regular Financial Audit are provided to the DCOC, the DCOC should be given appropriate administrative support to permit them to render the annual report to the taxpayers required under Section 15280(b) of the Ed Code. In administering the DCOC meetings, providing technical assistance and in developing, helping to draft and publishing the annual report of the DCOC, the District may not expend Bond proceeds; this means that neither Build staff and consultants may provide the requisite administrative support, although Project Managers may be delegated to make reports to particular DCOC meetings on particular projects. Additionally, this means that video reports on progress on the Bond Program, while they may be an appropriate means of communication for such a wide-ranging program, may not be paid for from Bond proceeds.

LAW
MEMORANDUM

TO: Board of Trustees, Los Angeles Community College District

CC: General Counsel

FROM: Lisalee Anne Wells

DATE: September 14, 2010

RE: Compliance Standards under Prop 39 for District Bond Program

As the Board of Trustees requested, we have worked closely during the past several months with the District's performance audit firm, Moss-Adams LLP ("Moss-Adams"), to develop a specific set of Cost Principles under which the District's Bond Construction Program (the "Bond Program") could operate on a going-forward basis. The process involved discussions both in person and by phone with representatives of Moss-Adams, the District's Executive Director of Facilities (the "EDF"), General Counsel, the Interim Chancellor and partners from Fulbright & Jaworski L.L.P. We understand that a final version of the Cost Principles has been presented to the Board.

The Cost Principles represent a sound template for the general operation of the Bond Program, and will, we understand from General Counsel be supplemented from time to time by other policies. We wanted to take this opportunity to revisit the recommendations we delivered to the Board on March 10, 2010 (the "Recommendations"), in light of these discussions, the Cost Principles, actions taken since March 10 by the EDF and the detailed analysis of actual work accomplished by BuildLACCD staff ("Build") that we have been able to conduct since then. As you recall, the baseline for the Recommendations was the request of the Interim Chancellor that our firm and the Capstone Advisory firm review the Build position descriptions to determine and report back to the Board whether all of the described tasks and positions resulted in "value added" to the Bond Program. The Board took steps in March to order creation of an Office of the Inspector General for the Bond Program and to establish a whistleblower program, both of which will only further improve the District's ability to comply with Prop 39 and insure the best possible outcome for its taxpayers.

The following summarizes our view of the current status of points of concern raised in our Recommendations, based on the intervening actions and developments described above. Certain of the Recommendations were made on the basis of law and regulation, others on the basis of public policy, each with a view to improving the Bond Program and insuring the "value added" specified by the instructions given to us by the Board. All of the concerns evidenced in the Recommendations derived from specific tasks that Build staff reported in their own
published Position Descriptions, from posted expense reimbursements within the Bond Program, or from other documents available to the public, including the annual Performance Audits and the Moss Adams contract. **We highlight below those points where we have modified our position from that set forth in the initial Recommendations, based on the above-described discussions.** Citations to the Cost Principles are expressed as "CPI," for example, referring to page one thereof.

**Grant-writing.** We are advised that the positions and activities at Build where Bond proceeds were applied have been terminated. Pursuant to the Tax Code and applicable regulations, expenditures of moneys in the pursuit of grants are not considered capital in nature. CP5 is consistent with this.

**Conference-going.** We continue to recommend that Build staff attendance at conferences, where the registration fees, travel and/or time is supported by Bond proceeds, be limited to conferences where specific training is provided to the attendees for skills that will be useful in the Bond Program. "Bidders' conferences" are not the type of conference covered by the Recommendations and should not be subject to restriction. Expenses associated with conferences not constituting training for Project purposes are not qualified as a capital expenditure related to the Bond Program. CP4 is consistent with this.

**Curriculum Development.** Curriculum development for general educational programs is an operational cost of the District and may not be financed with Bond proceeds. The providing of training to prospective bidders (as opposed to District students) to increase their success in responding to RFPs for Bond Program projects constitutes a contracting expenditure that is related to the capital program and is not considered "curriculum development." CP4 is consistent with this.

**Public Relations.** We are advised that the scope of the public relations effort conducted by Build staff has now been reduced to a level consistent with the legal obligation of the District to provide public information regarding progress, traffic implications and financial updates, as well as to respond to community and press inquiries regarding the Bond Program, as well as Bond Program website maintenance. **Following discussions with the EDF, we are now of the position that the aerial photography paid for with Bond proceeds may be considered as a capital expenditure, where the purpose is to record construction progress; however, aerial photography done for the benefit of the DCOC (see below) cannot be qualified for payment with Bond proceeds pursuant to Section 15280(a) of the Education Code, which is a part of Prop 39. We are now also of the view that reasonable expenditures may he made from Bond proceeds to provide for customary groundbreaking, topping-off and dedication ceremonies at Bond-financed buildings.** CP7 is consistent with this.

**Food Services and Entertainment.** Based on the Tax Code and regulations, we are of the view that neither food services nor entertainment for Build staff or vendors would qualify as capital expenditures, except modest food and drink provided in connection with any groundbreaking or similar activities conducted for Bond-financed buildings. The Recommendations suggested a stringent standard, which we believed consistent with the District's existing internal
policy on payment for food services. The food services and entertainment that the Recommendations recommended be curbed were internal, *ad hoc* meals provided to Build staff for business meetings and social events paid for with Bond proceeds. CP5 is fundamentally consistent with this.

**Internship Programs.** The Recommendations did not suggest that there was a legal question as to whether District students and others working on Bond-financed projects as interns may be paid from Bond proceeds. They instead focused on the substantial administrative and management network that had been created within the Build organization and through contracting with outside vendors to solicit and administer participants in a separate internship program. Career or job placement activities, matching students with employers working on the Bond Program, do not constitute a capital expenditure related to the construction of Bond-financed buildings. However, we agree that a reasonable amount of Bond proceeds may be expended in order to assemble and post internship availabilities on the LACCD Builds Green website. CP6 sets forth the position of Moss-Adams.

**Recycling Programs.** As stated in the Recommendations, a reasonable amount of training of College staff to use newly purchased recycling equipment or systems is an appropriate use of Bond proceeds, where the equipment was Bond-financed. The recycling of construction materials is of course also a proper expenditure of Bond funds. We are advised that Build staff activities conducting competitions, either local or national, for general recycling have ceased. CP8 is consistent with this.

**Gifts and Take-Aways.** Whether or not considered as part of the outreach effort, the purchase of gifts for vendors, prospective vendors or Build staff and branded items (“BuildLACCD”) with Bond proceeds is not a capital expenditure. We are now advised that the Safety Program implemented for the Bond Program has traditionally awarded a limited number of non—cash items as safety incentives, which we agree may be paid for in reasonable amounts from Bond proceeds. CP7 is consistent with this.

**Applications for LEED Certifications and Training.** As a policy matter, the Recommendations suggested that the District conserve Bond proceeds for additional construction by reducing its costs related to LEED Certifications, as its Bond-financed buildings may neither be sold or commercially financed, keeping in mind the Board's concern that all Build activities should "add value" to the Bond Program. Although there is some reason to have the few permanent District employees who are managing the Bond Program given training on LEED standards, as the Board so directs, Build staff, who are only temporarily engaged on the Bond Program, have obtained LEED Certifications of permanent and portable value to them, personally, which should, in our view, be treated as a District capital expenditure. Constructing buildings to LEED standards can be accomplished without certain of the expenses associated with LEED credentialing. Accordingly, we still recommend that careful scrutiny of LEED-related expenditures be made on an ongoing basis. CP6 sets forth the position of Moss-Adams.

**Tenant Improvements.** District staff is developing a policy regarding tenant improvements, which would set forth standards by which the EDF can judge whether
improvements are made simply for the benefit of an interim third-party (i.e., other than a College) user, for which no Bond proceeds may be expended, or are of use to the College that will eventually operate the property. The suggested restrictions on tenant improvements derive from a need to use Bond proceeds only on projects included in the Project List approved by the voters for the particular authorization; expenditures outside a Project List made at the behest of parties other than the District or its Colleges would not be consistent with Prop 39. CP8 is consistent with this.

**Excessive Outreach.** The degree of outreach reasonably necessary for implementation of a bond construction program depends upon many factors, including the length of time the program has been in existence, the geography of the public agency and the volume of qualified bidders participating. We have been advised that the participation by qualified local, small and emerging businesses in the Bond Program has exceeded 60% and that the EDF has determined that remaining outreach efforts may successfully be implemented by a reduced Build outreach staff. CP7 is consistent with this.

**Lobbying.** While some Position Descriptions originally included lobbying efforts as part of the assigned tasks of Build staff, we are advised that no Build staff are authorized to engage in lobbying, as defined under the Fair Political Practices Act (the "FPPA"). The EDF has examined the scope of various positions to insure that the FPPA will be complied with and General Counsel has obtained a review by FPPA counsel for further guidance. Lobbying for additional funds for the District or for favorable legislation, even if such legislation would ease restrictions on construction or provide more flexibility to the District, is not a lawful use of Bond proceeds under the Tax Code and regulations and could endanger the tax-exempt status of the District's Bonds. CP6 is consistent with this.

**Vendor Solicitation.** We understand the District's policy to be that Build staff shall not use District time or resources in support of any political activity, in strict compliance with Education Code Section 7054; additionally, we point out that the expenditure of Prop 39 Bond proceeds to pay salaries of persons engaged in such solicitation or in the solicitation of contributions for any District activity or function would not constitute a qualified capital expenditure. CP4 is consistent with this.

**Revisions to Performance Audit Contract.** Since March 10, Moss-Adams has worked with our firm and with General Counsel to delete certain extraneous tasks described in their original contract with the District as Performance Auditor, so that there is no suggestion that their work is being done for other than Prop 39 purposes. In particular, they have clarified language regarding audits of State matching funds to restrict their work to Bond-financed projects which also involve State matching funds, they have deleted references to positioning the District for future bond elections and other administrative and non-capital support activities. We have been advised that the modified contract has been executed and is now in place.

**Improvements to Administration of the DCOC.** We are advised that District support for the District Citizens Oversight Committee now complies fully with Section 15208(6) of the Education Code and that no Bond proceeds are being expended for administrative support of the
DCOC. We have also been advised that the EDF is working with members of the DCOC to insure that for Fiscal Year 2009-10, recently completed, the DCOC will in fact deliver its report to the taxpayers as required by Prop 39.

We recognize that the restrictions derivative from Prop 39, the Tax Code and regulations and general public law are not always easy to balance against the capital and program needs of the District and its students, but by investing this additional time and effort to modify the Bond Program, the District can insure strict compliance with the law. In addition, this past spring, the Board was advised by its Financial Advisor, managing underwriter and ourselves of the additional scrutiny that the Internal Revenue Service will make of any public agency that has issued Build America Bonds (as the District has since done), to insure strict adherence to the IRS regulations requiring their use for capital projects. We have walked the EDF and the CFO carefully through these regulations as currently enforced. We understand that the Recommendations reflect a conservative interpretation of the law but felt then and continue to feel that this would be the best and safest course for the District.

As always, if you should have any questions concerning the foregoing, we would be pleased to respond.
Los Angeles Community College District
Proposition A/AA and Measure J Cost Principles

I. INTRODUCTION AND GENERAL PROVISIONS

Upon consultation with the Los Angeles Community College District (LACCD or District) and Bond Counsel, Moss Adams LLP (Moss Adams) drafted cost principles for LACCD consideration in its determination of allowable Proposition A/AA and Measure J Construction Bond Program (Bond Program) costs, under the California Constitution. These cost principles do not pertain to any other legal requirement or restriction on the use of Bond Program funds. These draft cost principles do not consider all potential project costs and will be considered in addition to other sources for the District’s consideration and decisions regarding the content of policies and procedures that the District might choose to adopt.

These cost principles are conservative in nature, provide information on cost reasonableness and do not supplant the requirements of the California Constitution. These draft cost principles will only be used in establishing a basis for future cost allowability pertaining to the cost principles identified. These cost principles apply the language of the California Constitution as well as recommended practices for determining allowable costs incurred.

No set of cost principles can define all of the specific activities, circumstances and situations that result in cost or cause a cost incurred to be determined as expressly unallowable, unreasonable or reasonable. Additionally, the interpretation of cost reasonableness can be subjective and differs from person to person, depending on the observer’s frame of reference and individual perceptions. Therefore, at best, the cost principles provided in this document can only provide guidance and cannot be considered a means for absolute determination of cost reasonableness. Anyone who applies these cost principles should consider how the actions impact the Bond Program and how these actions may be perceived. Those who monitor the actions of personnel working on the Bond Program are cautioned to recognize that interpretation and application of cost principles cannot be defined in absolute terms, and cannot be applied without actively seeking an understanding of the process and activity that resulted in the cost incurred. In all
cases, consideration should be given to how a cost contributes to the completion of Listed Projects in an effective, efficient and expressly compliant manner.

II. DEFINITIONS

A. Bond Program Purpose: In order for costs to be considered to have a valid Bond Program purpose, the following criteria must be met:

1. Documentation must be provided that establishes a clear causal/beneficial relationship between the cost and the related cost objective. Generally the cost objective is a Bond Program project or projects.

2. The cost must not violate the provisions in the California Constitution, which states in part:
   a. Article XIII A, Section 1(b)(3) definition of costs which qualify as Bond Program expenditures: “Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities…”
   b. Article XIII A, Section 1(b)(3)(A) definition of costs which do not qualify as Bond fund expenditures: “A requirement that the proceeds from the sales of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses…”

B. Listed Projects: Listed projects are specified by Proposition A/AA and Measure J as required construction, reconstruction, rehabilitation, or school facilities replacement projects indicated in the LACCD Construction Bond Program Documents under the California Constitution (Listed Projects). Listed Projects pertain specifically to the Bond Program.

C. Expressly Unallowable: Costs which meet the California Constitution definition of costs that cannot be paid for using Bond Program funds (Bond Program Purpose 2.b. above). Although not required by California law, as a matter of policy, the Board may require that costs of this category that are incurred or committed after the adoption of this policy may have to be quantified and repaid using general funds.

D. Unreasonable Costs: Costs are considered unreasonable, as a matter of policy by the District, when in nature and amount these Bond Program charges exceed the amount that would be incurred by a prudent person in the conduct of school construction. Cost unreasonableness depends on a variety of circumstances, including:
   1. Whether the cost is not ordinary and/or necessary for the conduct of school construction.
   2. Good business practices, arms length bargaining, and District Policies have not been applied.
3. District or contractor actions are contrary to fulfilment of the public responsibilities of the District.
4. Proven deviation from established contractor practices.

Costs may be considered unreasonable for the purposes of the cost principles indicated in this document and not be specified as unallowable costs under the California Constitution and the Education Code. The California Constitution addresses certain aspects of the identification and allocation of certain costs to Listed Projects in determining cost allowability. Specifically, the California Constitution requires costs to be incurred for construction, reconstruction, rehabilitation, or school facilities replacement. The cost principles add the concept of cost reasonableness to the determination of whether a cost may or may not be a cost to be paid for out of Bond Program funds.

E. **Reasonable Costs**: Examples and definitions of reasonable costs are provided throughout this document. The burden of cost reasonableness proof is the responsibility of the District and/or the contractor. Costs which are inconsequential in amount and not material to the Bond Program will be considered reasonable in amount.

F. **Reimbursable Costs**: Costs incurred on cost reimbursable type contracts (including time and material contracts and guaranteed maximum price contracts).

### III. Cost Principles

For each category of cost, there is a defined expressly unallowable cost, and where applicable, unreasonable uses and examples of reasonable uses of Bond Program funds. For purposes of classification, there are examples of reasonable uses in some categories, but the absence of examples should not be used to infer that there are no reasonable uses in the category of expenditure.

<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Cost Principles</th>
</tr>
</thead>
</table>
| Allocation of Program Management and other District Wide Costs | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Significantly inequitable cost allocations that result in excess cost allocation to Bond Program funded projects (as opposed to other non-Bond Program funded projects) is unreasonable. For example, program management costs associated with a project that is partially funded with Bond funds and partially with state funding should have a reasonably proportionate share of costs charged to each source of funding. |
| Bad Debts                                                  | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Contractor and consultant pass-through of bad debt costs, including actual or estimated losses arising from uncollectible receivables, are considered an unreasonable use of Bond funds. |
<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Cost Principles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonuses and Incentive</td>
<td><strong>Expressly Unallowable</strong>: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.</td>
</tr>
<tr>
<td>Contingencies</td>
<td><strong>Expressly Unallowable</strong>: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.</td>
</tr>
<tr>
<td>Conference Costs</td>
<td><strong>Expressly Unallowable</strong>: Conference costs for which documentation is not provided to establish that a valid Bond Program purpose exists. For example, speaking on a panel when the purpose is to share information with other organizations, but for which no specific benefit to the Bond Program can be demonstrated, would be considered an expressly unallowable cost. <strong>Unreasonable Use of Bond Funds</strong>: Conference costs for which a Bond Program purpose can be established, but do not fit the definition of training are not considered a reasonable Bond Program cost. For example, even as to conferences that qualify as training, sending a large number of staff members to a conference that does have value to the Bond Program, but for which fewer staff could attend and then share the information with the remaining BuildLACCD staff may be considered an unreasonable cost. The exception definitions above do not apply to training related activities. Please see the separate section on training activities for exception definitions on training costs.</td>
</tr>
<tr>
<td>Contributions or Donations</td>
<td><strong>Expressly Unallowable</strong>: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable. <strong>Unreasonable Use of Bond Funds</strong>: Contractor and consultant pass-through of contributions and donations are considered an unreasonable use of Bond funds because these costs are estimated future costs and Bond fund expenditures should be based on actual costs.</td>
</tr>
<tr>
<td>Credits</td>
<td>“Credits” means credits against billings in the program, and does not relate or refer to tax credits. <strong>Expressly Unallowable</strong>: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable. <strong>Unreasonable Use of Bond Funds</strong>: Credits related to Bond fund expenditures shall be credited to the Bond Program. Failure to credit the Bond program results in an unreasonable cost.</td>
</tr>
<tr>
<td>Cost Category</td>
<td>Cost Principles</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Curriculum Development| **Expressly Unallowable**: Development of curricula for District college course or for use related to general District education programs. For example, development of curriculum on sustainability for use in college courses would be expressly unallowable as a use of Bond funds.  
**Unreasonable Use of Bond Funds**: Curriculum development costs which do not support allowable training cost (as defined above) are not considered reasonable.  
**Reasonable Use of Bond Funds**: For example, “bidders’ boot camp” training material development is considered a reasonable cost to the extent it provides guidance required to comply and assist with qualified bidder participation in Bond Program procurement requirements. |
| Entertainment Costs    | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Entertainment costs (as defined below) are considered an unreasonable use of Bond funds.  
Entertainment costs are defined as costs of amusement, diversion, social activities, and any directly associated costs such as tickets to shows or sporting events, holiday parties, and other similar events are considered entertainment. |
| Fines and Penalties    | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Contractor and consultant pass-through of fines and/or penalties incurred by the contractor or consultant are considered an unreasonable use of Bond funds. Fines and penalties incurred by the LACCD may or may not be an appropriate use of Bond funds. |
| Food Service Costs     | **Expressly Unallowable**: Food service costs for which documentation is not provided to establish that a valid Bond Program purpose exists are unallowable. Non-meal related entertainment costs are also unallowable.  
**Unreasonable Use of Bond Funds**: Any food service costs for which Bond Program purpose can be established, but the value to the Bond Program is questionable in nature or the amount cannot be proven by the District to be reasonable are to be disallowed. Costs that are not ordinary and/or necessary to the accomplishment of Bond Program objectives are to be presumptively considered unreasonable.  
**Reasonable Use of Bond Funds**: Food costs at special events for which public information is provided, allowable training costs incurred, or meetings for the purpose of administration or completion of listed projects is fulfilled are considered reasonable to the extent that these costs do not exceed limits to be established by the District. No other food service costs are allowed.  
For example, a safety BBQ is considered reasonable to the extent that this cost contributes to Listed Project safety cost management and does not exceed the limits to be established by the District. |
<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Cost Principles</th>
</tr>
</thead>
</table>
| Grant Writing                 | **Expressly Unallowable**: Grant writing for the purpose of obtaining funds to provide for College operating costs or for other unallowable activities as defined in the California Constitution.  
**Reasonable Use of Bond Funds**: Costs related to management of grant funds, regardless of source, that are associated with Bond-funded projects are considered a reasonable use of bond funds. |
| Internship Program Costs      | **Expressly Unallowable**: Internship costs for which documentation is not provided to establish that a valid Bond Program purpose exists. For example, internship program costs incurred to place students in jobs that are not related to the Bond Program are considered unallowable costs.  
**Unreasonable Use of Bond Funds**: Internship costs for which a Bond Program purpose can be established, but the value to the Bond Program is questionable in nature or the amount is unreasonable.  
Costs related to time spent recruiting interns is considered an unreasonable cost because it is considered unnecessary.  
**Reasonable Use of Bond Funds**: Costs related to managing interns, including training interns prior to placement are considered reasonable if reasonable in amount. Costs related to placement of interns in specific Bond-funded positions is considered reasonable if reasonable in amount.  
Costs related to advertising internship opportunities in publications or web sites, including the time spent preparing the advertisements, are considered reasonable costs if reasonable in amount. |
| LEED Costs                    | **Expressly Unallowable**: Leadership in Energy and Environmental Design (LEED) related costs for which documentation is not provided to establish that a valid Bond Program purpose exists. LEED certification of BuildLACCD staff for the purpose of personal certification and not caused by the Bond Program or necessary for use on the Bond Program would fall into this category.  
**Unreasonable Use of Bond Funds**: LEED costs for which a Bond Program purpose can be established, but the value to the Bond Program is questionable in nature or the amount cannot be proven by the contractor to be reasonable. Costs that are not ordinary and/or necessary to the accomplishment of Bond Program objectives are to be presumptively considered unreasonable.  
**Reasonable Use of Bond Funds**: Training that is required to address unique Bond Program technical objectives, to perform complex activities to achieve required Bond Program outcomes and/or to fulfill specific instructions required for work performance may be considered allowable in nature. The reasonableness of the cost amount will depend, in part, on whether the cause of the training requirement came from Bond Program objectives and the nature of supplier contract pricing with the District.  
Costs to obtain LEED certification of buildings are considered reasonable if reasonable in amount. |
<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Cost Principles</th>
</tr>
</thead>
</table>
| Lobbying Costs   | **Expressly Unallowable**: Lobbying the state, federal or other local governments, for whatever reason, is unallowable. What constitutes “lobbying” is under review by District staff and will be the subject of a policy to be developed by the District.  
**Unreasonable Use of Bond Funds**: N/A, always unallowable.                                                                                   |
| Outreach Costs   | **Expressly Unallowable**: Outreach costs for which documentation is not provided to establish that a valid Bond Program purpose exists.  
**Unreasonable Use of Bond Funds**: Outreach costs for which a Bond Program purpose can be established but the value to the Bond Program is questionable in nature or the amount cannot be proven by the contractor to be reasonable. Conference “take aways” are considered to be unreasonable, regardless of amount. Costs that are not ordinary and/or necessary to the accomplishment of Bond Program listed projects are to be presumptively considered unreasonable. Water bottles and other similar take away items are not considered reasonable. For example, the dissemination of “stress relief” hammers at conferences would be considered an unreasonable cost. At this point in the Bond Program, sufficient awareness should be present necessitating significant burden of proof that these costs are necessary.  
**Reasonable Use of Bond Funds**  
Business cards caused by and purchased for the LACCD Bond Program are allowable in nature.                                                                                                  |
| Pension Costs    | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Contractor and consultant pass-through of direct pension costs in excess of the current period funding obligation are unreasonable. Pension costs that are assumed as part of a contractor or consultant’s general fees or charges are not considered unreasonable.                                                                                   |
| Public Relations | **Expressly Unallowable**: Public relations costs for which documentation is not provided to establish that a valid Bond Program purpose exists.  
**Unreasonable Use of Bond Funds**: Public relations costs that do not constitute public information are considered unreasonable costs.  
**Reasonable Use of Bond Funds**: Public information costs include costs incurred to:  
1. Respond to inquiries on Bond Program-related policies and activities  
2. Communicate with the public, press and other interested parties in relation to the Bond Program listed projects or the administration of those projects  
3. Conduct general liaison with news media  
4. Sponsor tours of facilities related to the Bond Program  
5. Sponsor special events related to building groundbreaking or opening
<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Cost Principles</th>
</tr>
</thead>
</table>
| Recycling Costs       | **Expressly Unallowable**: Recycling costs for which documentation is not provided to establish that a valid Bond Program purpose exists. Recycling competitions, recycling outreach and college recycling operations (not related to construction) fall into this category.  
**Unreasonable Use of Bond Funds**: Recycling costs for which a Bond Program purpose can be established, but the value to the Bond Program is questionable in nature or the amount cannot be proven are considered unreasonable. Costs that are not ordinary and/or necessary to the accomplishment of Bond Program objectives are to be presumptively considered unreasonable.  
**Reasonable Use of Bond Funds**: For example, recycling of construction materials on Bond Program projects is a reasonable cost, as is the cost of training users on how to use recycling equipment purchased with Bond Program funds. |
| Relocation Costs      | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Contractor and consultant pass-through of losses on home sales, costs incident to acquiring a home in a new location, and costs related to employees that resign within 12 months of relocation are considered unreasonable costs.                                                                                                                                                                                                                     |
| Severance Pay         | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Contractor and consultant severance payments that were not required by (a) law; (b) employer-employee agreement; or (c) established policy will be considered unreasonable.                                                                                                                                                                                                                     |
| Tenant Improvement Costs | **Expressly Unallowable**: Tenant improvement costs for which a clear Bond Program purpose cannot be identified are an unallowable use of Bond funds.  
**Unreasonable Use of Bond Funds**: The definition of what constitutes unreasonable tenant improvement costs is being reviewed by District staff and will be the subject of a separate policy statement to be developed by the District.                                                                                                                                                                                                       |
| Termination Costs     | **Expressly Unallowable**: Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds**: Contractor and consultant pass-through of termination costs that include unreasonable cost allocations are considered unreasonable costs.                                                                                                                                                                                                                     |
<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Cost Principles</th>
</tr>
</thead>
</table>
| **Training Costs** | **Expressly Unallowable:** Training costs for which documentation is not provided to establish that a valid Bond Program purpose exists.  
**Unreasonable Use of Bond Funds:** Training costs for which a Bond Program purpose can be established but the value to the Bond program is questionable in nature or the amount cannot be proven by the contractor to be reasonable.  
**Reasonable Use of Bond Funds:** Training that is required to address unique Bond Program technical objectives, to perform complex activities to achieve required Bond Program outcomes, and/or to fulfill specific instructions required for work performance may be considered allowable in nature. The reasonableness of the cost amount will depend, in part, on whether the cause of the training requirement came from Bond Program objectives and the nature of supplier contract with the District. “Bidders Boot Camp” and other costs of helping contractors respond to Bond program Bid Requests, Requests For Proposal (RFP) and requests for Quotations (RFQ) are considered reasonable if reasonable in amount. |
| **Travel Costs** | **Expressly Unallowable:** Any costs for which documentation does not exist to validate that a Bond Program purpose exists are considered unallowable.  
**Unreasonable Use of Bond Funds:** Travel costs which exceed the maximums specified in the Federal Travel Regulation (FTR) and the Joint Travel Regulation (JTR) are considered unreasonable costs. |
CHAPTER VII

ARTICLE X

MEALS AND REFRESHMENTS AT FORMAL DISTRICT FUNCTIONS

71000. CHANCELLOR'S AUTHORIZATION TO EXPEND FUNDS. The Chancellor may authorize actual and necessary expenditures from the General Fund for meals and refreshments served at District events, meetings, and conferences if the serving of meals or refreshments directly facilitates a District purpose or function.

71000.10 Appropriate Functions or Events. Listed below are events at which such expenditures may be appropriated:

1. In-service Training Events; and
2. Educational Conferences and Events; and
3. Selected committees not covered under Personnel Commission's authority; and
4. Special functions that directly serve a District need or function.

71000.11 Disallowed Reimbursables. District expenditures for meals and refreshments are NOT allowed for routine administrative meetings, budget planning sessions or other types of informal meetings that are held in the normal course of performing a job.

71000.12 Prohibitions Consistent with California Law. In order to overcome prohibitions against gifts of public funds and conflicts of interest, expenditures for non-employees must be consistent with California law and with the purpose for which the District was established.

Adopted 10-25-95
71000.13 Requests for Expenditures. All requests for expenditures shall be prepared in accordance with the Business Services Procedures guidelines. Each request must be submitted prior to the event on the Request for Food Purchase form and approved by the appropriate College President, Deputy Chancellor or designee and Division (Office)/Department Head at the College or District Office.

71000.14 Advance Relevant Payments. Advance payments may be authorized to caterers, restaurants, hotels and other providers of food service when required.

71000.15 Other Costs. Tips or other food service related gratuities are allowed if payment is supported by a printed transaction receipt. Such tips and gratuities cannot exceed 15% of the subtotal of the food purchase costs. "Service charges" are allowed in cases where the caterer, restaurant, hotel and/or other provider or food service adds the charge to the invoice. The District will pay this charge as a cost of doing business.

Expenditures for intoxicating spirits are not allowed except in accordance with Board Rule 10704.

Adopted 10-25-95
Amended 06-24-09